

## **REMARKS/ARGUMENTS**

### **A. Double Patenting**

The Examiner rejected claims 1-27 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of U.S. Patent Application 11/832,512.

A terminal disclaimer is being filed herewith and therefore these rejections are believed to be overcome.

### **B. Claim Rejections Under 35 U.S.C. § 101**

The Examiner rejected claims 1-23 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. By the amendments made above, these rejections are believed to be overcome.

### **C. Claim Rejections Under 35 U.S.C. § 103(a)**

The Examiner rejected claims 1-27 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent Application No. 2002/0152162, filed by Eda et al., in view of U.S. Patent No. 6,092,053, issued to Boesch et al.

As amended above, independent claims 1 and 24 are limited to a computer readable medium and an apparatus, respectively, including the following instructions:

automatically arranging for funds equal to the refund amount to be transferred from an account to the student ... *without goods or services being exchanged prior to arranging for the refund amount to be delivered.*

In contrast, the combination of Eda and Boesch, which is directed to a conventional buyer, seller, escrow agent arrangement, requires that the following occur prior to arranging for a refund to be delivered to the buyer: (1) an exchange of goods or services between the buyer and

seller; (2) a rejection of the goods or services by the buyer and request for refund; and (3) acceptance of the refund request by the seller.

Accordingly, as amended, independent claims 1 and 24 are not believed to be obvious over the combination of Eda and Boesch. For at least the same reasons as claims 1 and 24, the balance of the claims, which depend from claims 1 or 24, are also not believed to be obvious over the combination of Eda and Boesch.

**D. Summary**

In the present Office Action, the Examiner rejected claims 1-27. In this response, claims 1-24 are amended, claims 27-35 are canceled, and claims 25 and 26 are unchanged. Claims 1-26 are presented for further consideration.

The Applicant submits that none of the references, alone or in combination, anticipates or makes obvious the invention as presently claimed and that the application is now in condition for allowance. Therefore, Applicants respectfully request reconsideration and further examination of the application and the Examiner is respectfully requested to issue a Notice of Allowance at the earliest possible date.

If the Examiner has any questions or believes that a discussion with Applicants' attorney would expedite prosecution, the Examiner is invited and encouraged to contact the undersigned at the telephone number below. Please apply any credits or charge any deficiencies to our Deposit Account No. 23-1665.

Respectfully submitted,

Date: October 8, 2008

Reg. No. 42,565

/Anthony P. Gangemi/

---

Signature of Attorney  
Anthony P. Gangemi  
Wiggin and Dana LLP  
One Century Tower  
New Haven, CT 06508-1832  
Telephone: (203) 498-4395  
Facsimile: (203) 782-2889

16873\6\2105562.1